

## CHAPTER 20

### USE PERMITS

#### Article I. In General

##### Sec. 20-1.01. Purpose and Intent.

- (1) As permitted by Section 15.2-2286 of the Code of Virginia, 1950, as amended, the purpose of the Use Permit process is to develop and enforce regulations for a specific use on a specific parcel of land, such that the use is not detrimental to surrounding properties, even though that use is not normally permitted in the zoning district in which the parcel is located. Use Permits shall be limited to those specified in the individual zoning districts and to those listed in Section 20-5 herein. (9/9/98)
- (2) The Use Permit process recognizes the land use implications implicit in the approval of certain Use Permits, and endeavors to treat these applications with the same level of evaluation and attention as rezonings. Nothing in this Ordinance shall guarantee, through implicit or explicit language, the granting of any Use Permit.

##### Sec. 20-1. To be Secured from City Council; Planning Commission Review.

Use Permits, when required, shall be secured from the City Council. Use Permits shall first be reviewed by the Planning Commission, with their recommendation forwarded to City Council prior to any final action by City Council. (amended 10/23/96)

##### Sec. 20-2. Applications (amended 12/8/99)

- (1) Any application for a Use Permit shall be made by the property owner, or prospective occupant with the written consent of the owner, in writing to the Planning Director. Unless otherwise specified in this chapter, a completed application shall include the following:
  - (a) A fully completed "Land Use Application", as provided by the Planning Director;

- (b) The most recent surveyed plat of the property involved in the Use Permit; and
  - (c) A non-refundable application fee of six hundred fifty dollars (\$650.00). (7/11/01)
- (2) No application for a Use Permit shall be accepted within one (1) year of denial by the City Council of an application concerning the same use on substantially the same land, except upon motion by City Council.

Sec. 20-2.1. Repealed 10/23/96

Sec. 20-2.2. Scheduling of Applications; Planning Commission Review.

Once a completed application has been received, it shall normally be scheduled for public hearing no later than the second regularly scheduled Planning Commission meeting for which all required advertising and notification deadlines can be met. If, however, the Planning Director determines that additional information or review is necessary, the application may be scheduled for the third meeting for which all such deadlines can be met. (10/23/96)

Sec. 20-3. Public Hearings; Notification.

- (1) The Planning Commission shall not recommend, or the City Council approve, a Use Permit without first holding a public hearing on the matter. Public notice of such public hearing shall be given by the publication once a week for two (2) successive weeks in some newspaper having general circulation in the city. Such notice shall state where the Use Permit application may be examined. The notice shall also specify the time and place of hearing at which persons affected may appear and present their views, not less than six (6) days nor more than twenty one (21) days after the second advertisement shall appear in such newspaper.
- (2) For those Use Permits involving twenty five (25) or fewer parcels of land, then in addition to the advertising as required above, written notice shall be given at least five (5) days before the hearing to the owner of owners, their agents, or

the occupants of each parcel affected, all abutting property, and property immediately across the street or road from the property affected. If any portion of the affected property is within an R-OS Subdivision, then written notice shall be given to such incorporated property owners' association within the R-OS Subdivision that has members owning property located within two thousand (2,000) feet of the affected property. In the case of a condominium or cooperative, the written notice may be mailed to the unit owners' association or the proprietary lessees' association, respectively, in lieu of each individual unit owner. Notice shall also be given to the owner, his agent or the occupant, of all abutting property and property immediately across the street or road from the property affected which lies in an adjoining county or municipality. Notice sent by first class mail to the last known address of such owner as shown on the current read estate tax assessment records shall be deemed adequate; provided a representative of the Commission shall make an affidavit that such mailings have been made and file such affidavit with the papers in the case. (amended 10/23/96)

- (3) For those Use Permits involving more than twenty five (25) parcels of land, then in addition to the advertising required above, written notice shall be given by the Commission, at least five (5) days before the hearing to the owner, owners or their agent of each parcel of land involved. Nothing in this section shall be construed as to invalidate any subsequently adopted amendment because of the inadvertent failure of the Commission to give written notice to the owner, owners or their agent of any parcel involved. (amended 10/23/96)
- (4) A party's actual notice of, or active participation in, the public hearing required herein shall waive the right of that party to challenge the validity of the proceeding due to the failure of the party to receive the written notice required herein. (2/23/94)

Sec. 20-3.1. Deferral of Application on Request of  
Petitioner.

Deferral of consideration of any application filed pursuant to this chapter may be requested by the applicant in writing at any time, however:

- (1) if the request for deferral is made prior to the publication of the notice of public hearing for either Planning Commission or City Council, whichever is applicable at the time, such shall be granted administratively, for a period not to exceed forty-five (45) days; or
- (2) if the request for deferral is made after the publication of the notice of public hearing, such shall only be granted with the consent of either the Planning Commission or City Council, whichever is applicable, for a period not to exceed forty-five (45) days.
- (3) If an application is deferred at the request of the applicant after it has been advertised for public hearing, an additional fee of three hundred dollars (\$300.00) shall be paid by the applicant for re-advertising the application. (7/11/01)

Sec. 20-3.2. Withdrawal of Application.

- (1) Applications for Use Permits shall not be allowed to be withdrawn from consideration after the first notice of the public hearing thereon has been published by the City Council.
- (2) In those instances where there is concurrent advertising by the Planning Commission and City Council, an application may be withdrawn prior to the Planning Commission making a recommendation.

Sec. 20-3.3. Review and Recommendation by Planning  
Commission.

- (1) The Planning Commission shall have one hundred (100) days following its public hearing on the matter to transmit its recommendation to City Council, unless a deferral is requested by the applicant under Section 20-3.2. Failure to provide a recommendation within such specified time, or a shorter period as may be prescribed by

the City Council, shall be deemed a recommendation of approval. (amended 10/23/96)

- (2) The Planning Commission shall base its recommendation on the merits of the proposal, considering the purpose of the zoning district affected, the potential impacts of the proposal on the neighboring properties, and any relevant recommendations or policies in the adopted Comprehensive Plan. It shall recommend conditions, where possible, to counter any negative effects of the proposed use.

#### Sec. 20-4. Issuance of Permits.

Following any recommendation to the City Council by the Planning Commission on proposed Use Permits, if the City Council shall find that the use for which a Use Permit is sought, with the recommended conditions,: (1) will not adversely affect the health or safety of persons residing or working in the neighborhood of the proposed use; (2) will not be detrimental to the public welfare or injurious to property or improvements in the neighborhood; and (3) will be in accordance with all the current regulations of and the purpose of this Ordinance, and the Comprehensive Plan of the City of Hampton, and all other applicable ordinances, it shall issue the Use Permit. In granting any Use Permit, the City Council may designate such conditions in connection therewith as will, in its opinion, assure that the use will conform to the foregoing requirements and that it will continue to do so. Unless the application is sponsored by the City of Hampton, the City Council shall not approve any Use Permit until any delinquent real estate taxes owed to the City of Hampton on the subject property have been paid. (Amended 1/8/97)

#### Sec. 20-4.1. Expiration of Use Permits.

Unless otherwise specified in this chapter, a Use Permit shall automatically expire and become null and void under any of the following conditions:

- (1) If, in the case of new construction, the building has not been erected, with doors, windows, roof covering and exterior finish materials in place within two (2) years of the issuance of the Use Permit; or

- (2) Once the property may be occupied, the property is not used for the permitted purpose for a continuous two (2) year period.

Sec. 20-4.2. Application to the Property.

The Use Permit and all its conditions shall apply to the property for which it is issued so long as such property is used for the permitted purpose, regardless of changes in the ownership of the property, provided the Use Permit is not revoked under Section 20-4.1. Approval of a Use Permit shall not be considered a rezoning of the subject property.

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## Article II. Uses in All or Specified Districts

### Sec. 20-5. Uses Permitted in All Districts.

Subject to the securing of a Use Permit from the City Council, the following uses shall be permitted in all districts:

- (1) Deleted 10/25/95.
- (2) Marinas, for marine fuel service stations, subject to securing a Use Permit, which shall first be reviewed by the Planning Commission, with their recommendation forwarded to City Council prior to any final action by City Council.
- (3) Marinas, for pleasure craft sales, rentals, service, or storage, if located on waterways, subject to securing a Use Permit, which shall first be reviewed by the Planning Commission, with their recommendation forwarded to City Council prior to any final action by City Council.
- (4) Boathouses, subject to securing a Use Permit, which shall first be reviewed by the Planning Commission, with their recommendation forwarded to City Council prior to any final action by City Council.
- (5) Fishing or boating piers, docks, or ramps catering to the general public or for a club or association, whether an admission fee be charged or not, subject to securing a Use Permit, which shall first be reviewed by the Planning Commission, with their recommendation forwarded to City Council prior to any final action by City Council.
- (6) Deleted 10/23/96.
- (7) Deleted 10/23/96.
- (8) Excavations, filling, borrow pit operation, extraction, processing, and removal of topsoil, subsoil, sand, clay, gravel, or earth. Nothing herein shall be construed to require the securing of a Use Permit for the following: swimming pool construction, construction of foundation, landscaping activities on a single lot or parcel, the stripping or sod for agricultural purposes, approved subdivision plan, activities in

connection with a planned unit development, or activities in connection with an approved site plan. The controlled activity shall be subject to the following and subject to securing a Use Permit, which shall first be reviewed by the Planning Commission, with their recommendation forwarded to City Council prior to any final action by City Council. In addition:

- (a) The minimum lot size for any use in this category shall be two (2) acres.
- (b) The excavations shall be confined to areas distant at least one hundred (100) feet from all adjoining property lines and distant at least two hundred (200) feet from any dwelling, existing street, or proposed right-of-way and all property lines in a platted subdivision, except that the provisions of this paragraph may be varied when the excavation lies completely within the external boundaries of an approved subdivision and is designed as an integral part thereof; provided that this section shall not apply to borrow pits located wholly within the bed of a navigable stream.
- (c) The areas for approved activities shall be delineated on a plat prepared by a certified land surveyor licensed to practice in the Commonwealth of Virginia.
- (d) No trees or other existing growth shall be removed from the site except in the area to be excavated and in the right-of-way of haul roads, except that an area not to exceed ten thousand (10,000) square feet may be cleared for operational offices, shops, and storage areas. In all cases, existing vegetation shall not be removed immediately prior to excavation in that particular area.
- (e) Access shall not be from a minor residential street. All vehicular access from the premises on which such operations are conducted to any public roads shall be located to secure public safety, lessen congestion, and facilitate transportation, and shall be so maintained as to eliminate any nuisance from dust to neighboring properties. The City Council may deny the



application if it finds that excessive traffic congestion or street deterioration would result from the operation.

- (f) All equipment used for the production or transportation of materials shall be located, constructed, maintained, and operated in such a manner as to eliminate, as far as practicable, noises, vibrations, or dust which are injurious or annoying to persons living in the vicinity. Additional equipment not directly involved with the activity shall not be stored or maintained on the premises.
- (g) The slope of the banks of all excavations under this section shall be designed and maintained as follows: For the first one hundred (100) linear feet towards the center from the perimeter, the slope shall not be steeper than three (3) feet horizontal to one (1) foot vertical; for the second one hundred (100) linear feet, the slope shall not be steeper than two (2) feet horizontal to one (1) foot vertical; and for distances over two hundred (200) feet, the slope shall not be steeper than one (1) foot horizontal to one (1) foot vertical, unless soil or other conditions are such that a flatter slope is required to ensure adequate stability and safety.
- (h) The slope of the banks of any fill under this section shall not exceed one and one-half (1 1/2) feet horizontal to one (1) foot vertical without the use of an approved retaining wall. A flatter slope than one and one-half (1 1/2) to one (1) may be required if the conditions of the fill material or other conditions are such that a flatter slope is necessary to ensure adequate stability and safety. When filling is to be done adjacent to tidal marshes, an earthen dike or berm shall be established around the portion adjacent to the marsh. The top of the slope of the bank of the dike may not be closer than fifteen (15) feet to the saltbush line or other evidence of the upper limits of the marsh, and the slope of the bank on the marsh side shall not exceed three (3) feet horizontal to one (1) foot vertical. A

vegetative cover shall be established upon the dike.

- (i) A body of freestanding water will be permitted when the grades of slopes, depth of excavation, and run-off structures are approved as not creating a public nuisance or public health hazard. All woody vegetation and debris will be removed from all slopes prior to the pit being filled with water for a distance of one hundred (100) linear feet from the ultimate shore line.
- (j) A specific plan of systematic operation and rehabilitation shall be submitted and approved which shall provide in all respects for the adequate safeguarding and protection of other nearby interests and the general public health, safety, convenience, prosperity, and welfare, and which shall include a plan and program showing, by contour maps and otherwise, how the land is to be restored to a safe, stable, usable, and generally attractive condition by regrading, draining, planting, or other suitable treatment to resist erosion and conform substantially with adjacent land characteristics.
- (k) In the case of activities approved pursuant to this section, a reduction in the size of the proposed project may be permitted provided that all other provisions of the section are met and provided that such reduction shall be approved by the City Manager.
- (l) In consideration of applications under this subsection, the Council may vary, alter, or modify the specific provisions set forth herein in order to provide for more effective land use and development; giving due regard to the uniqueness and particular characteristics of the parcel of land involved.

Sec. 20-5.1. Uses Permitted in Specified Districts.

- (1) Deleted.

- (2) Vehicle storage areas, as permitted in a C-2, C-3, M-2, or M-3 District, shall include, at a minimum, the following conditions:
  - (a) All storage areas shall be enclosed by a six (6) foot opaque fence.
  - (b) There shall be a landscaped buffer of fifteen (15) feet between the fence and any existing or proposed right-of-way.
  - (c) There shall be a landscaped buffer of twenty (20) feet between the fence and any adjacent residential district or the property line of any existing dwelling unit.
  - (d) There shall be a landscaped buffer of fifteen (15) feet between the fence and any adjacent commercial property.
  - (e) When any yard area of a vehicle storage area abuts the front yard(s) of one (1) or more residential lots, all required fencing and all storage areas shall be set back a distance equal to the largest front setback of the dwelling(s) on the adjacent parcel(s). (10/27/99)
- (3) Deleted 10/27/99.
- (4) Commercial communication towers are permitted in the R-R, R-33, R-22, R-15, R-13, R-11, R-9, R-8, R-M, MD-T, MD-2, MD-3, MD-4, R-T, C-1, C-2, C-3, M-1, M-2, M-3, SPI-PL, SPI-HRC, and SPI-OH Districts subject to securing a Use Permit. Such Use Permit shall include the following submittals with application and at a minimum, satisfy the following conditions: (Amended 1/23/02)
  - (a) Conditional Use Permit applications for communication towers shall include the following:
    - (i) A site plan drawn to scale specifying the location of tower(s), guy anchors (if any), transmission building(s) and other accessory uses, parking, access, landscaped areas (specifying size, spacing, and plant material proposed) fences, and identify adjacent property owners.

- (ii) A report from a registered structural or civil engineer indicating tower height and design, structure, installation and total anticipated capacity of the structure (including number and types of antennas which could be accommodated). This data shall demonstrate that the proposed tower conforms to all structural requirements of the Uniform Statewide Building Code and shall set out whether the tower will meet the structural requirements of EIA-222 E "Structural Standards for Steel Antenna Towers and Antenna Supporting Structures" published by the Electronic Industries Association, effective June 1, 1987 or current update.
- (iii) A statement from a registered engineer that the NIER (nonionizing electromagnetic radiation) emitted therefrom does not result in a ground level exposure at any point outside such facility which exceeds the lowest applicable exposure standards established by any regulatory agency of the U.S. government or the American National Standards Institute.
- (iv) Evidence of the lack of space on suitable existing towers, buildings, or other structures to locate the proposed antenna and the lack of space on existing tower sites to construct a tower for the proposed antenna within the service area shall be considered in the review of conditional use permit applications for a new tower.
- (v) Intermodulation testing is coordinated through the Hampton Police Division demonstrating that the proposed antenna operation is designed in a manner to eliminate interference with public safety communications. Such testing shall also be required from each subsequent operator prior to any building permits to add or modify antennae. Should any equipment associated with the antennae be found to interfere with public safety communications, the owner shall be

responsible for the elimination of such interference. (Amended 1/23/02)

- (b) The following locational criteria shall be considered in determining the appropriateness of sites for communication towers:
  - (i) Whether the application represents a request for multiple use of a tower or site, or use on a site contiguous to an existing tower site.
  - (ii) Whether the application contains a report that other potential users of the site and tower have been contacted, and they have no current plans, to the best of their ability to determine, that could be fulfilled by joint use.
  - (iii) Whether the application shows how the tower or site will be designed or laid out to accommodate future multiple users. Specific design features evaluated shall include but not be limited to height, wind loading, and coaxial cable capacity.
  - (iv) Whether the proposed tower is to be located in an area where it would be unobtrusive and would not substantially detract from aesthetic or neighborhood character, due either to location, to the nature of surrounding uses, (such as industrial uses) or to lack of visibility caused by natural growth or other factors.
- (c) Accessory facilities may not include offices, vehicle storage, or outdoor storage unless permitted by underlying zoning.
- (d) Advertising and/or signage on tower structures is prohibited.
- (e) The minimum setback requirements from the base of the tower to any property line abutting a right-of-way of any planned or existing street, and all residential uses shall be at least fifty(50) feet unless a greater setback is specified due to site specific characteristics. For property lines

abutting nonresidential uses, the minimum setback requirements shall be at least twenty-five (25) feet unless a greater setback is specified due to site specific characteristics. The minimum setback for guy towers shall be equal to forty (40) percent of tower height.

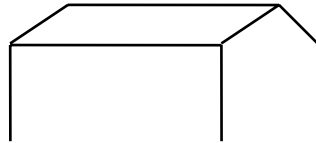
- (f) Minimum site size shall be no less than two thousand (2,000) square feet.
- (g) Towers two hundred (200) feet in height or less shall have a galvanized finish or be painted silver. Regulations of the Federal Aviation Commission or Federal Communications Commission supersede this requirement if contradictory.
- (h) Towers shall be illuminated as required by the Federal Aviation Administration. However, if not required by the Federal Aviation Commission, no lighting shall be incorporated.
- (i) Landscaping shall be required as follows:
  - (i) For towers two hundred (200) feet or less in height, at least one (1) row of evergreen shrubs capable of forming a continuous hedge at least five (5) feet in height shall be provided with individual plantings spaced not more than five (5) feet apart and at least one (1) row of evergreen trees with a minimum caliper of one and three-fourths ( $1 \frac{3}{4}$ ) inches at the time of planting and spaced not more than twenty-five (25) feet apart shall be provided within fifteen (15) feet of the perimeter of the setback area.
  - (ii) For towers more than two hundred (200) feet in height, in addition to the requirements for landscaping above, one (1) row of deciduous trees, with a minimum caliper of two and one-half ( $2 \frac{1}{2}$ ) inches at time of planting and spaced not more than forty (40) feet apart shall be provided within twenty-five (25) feet of the perimeter of the setback area required by item (i) above.

- (iii) In lieu of the above requirements, in special cases including cases where a required tree would be closer to the tower or to a guy wire supporting the tower than the height of the tree at maturity, the applicant may prepare a detailed plan and specifications for landscape and screening, including plantings, fences, walls, topography, etc., to screen the base of the tower and accessory uses. The plan shall accomplish the same degree of screening achieved in items (i) and (ii) above.
- (iv) All required landscaping must be installed and approved in accordance with Chapter 9\_, Article IV of the City Code, the Site Plan Ordinance.
- (j) Commercial communication towers up to one hundred fifty feet (150') in height sited on properties included in the inventory of appropriate sites for communication towers recommended in the Master Plan which is adopted by reference as a component of the 2010 Comprehensive Plan are exempt from the Use Permit requirement provided all the above listed provisions are satisfied and proposals to site said improvements are first reviewed by the Planning Commission, with their recommendation forwarded to the appropriate board or commission for further consideration. Failure on the part of the Planning Commission to act on such proposals within ninety (90) days of submission shall be deemed approval, unless the applicant agrees to an extension of time. (9/9/98)
- (k) Additional conditions may be included contingent upon site specific characteristics. (7/10/96)
- (5) Use Permits for adult care residence 2 or 3, group home 2, or juvenile residence 2 or 3 in any residential zoning district shall include the following minimum conditions:
  - (a) No facility shall be located within a three-quarter (3/4) mile radius of any existing facility of the same type;

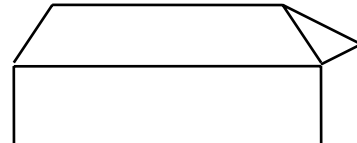
(b) All new construction shall meet the following design standards:

(a) Architectural standards:

(aa) Only gable and hip-style roofs shall be permitted.

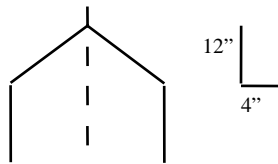


Gable Type

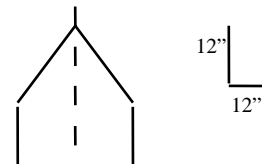


Hip Type

(bb) Roof pitch shall be a minimum of 1:3, horizontal to vertical, with a maximum of 1:1.



Minimum Roof Pitch  
4" Horizontal: 12" Vertical



Maximum Roof Pitch  
12" Horizontal: 12" Vertical

(cc) Roofs shall be designed with at least one change or break in plane within every sixty foot (60') segment. Vertical roof changes, porch roofs and dormers are examples of acceptable plane changes.

Typical roof lines with periodic breaks in plane.

(dd) Roof materials shall be those typical in residential construction. Existing buildings undergoing expansion shall use materials similar in color, size and texture to the existing roof materials. Standing seam metal



roofs shall not be permitted unless required due to the expansion of an existing roof.

(ee) Building materials to be used for exterior finishes shall be those typical in residential construction. Concrete masonry units, precast concrete panels, vertical ribbed metal exteriors or highly reflective materials shall not be permitted unless required due to the expansion of an existing building. Existing buildings undergoing expansion shall use materials similar in color, size and texture to the existing building materials.

(ff) Windows shall cover between ten percent (10%) and fifty percent (50%) of any exterior wall fronting on an existing or proposed public right-of-way. Existing buildings undergoing expansion shall preserve the existing portion of exterior wall and glazing on any new walls that front on an existing or proposed public right-of-way.

(b) Green area:

Whenever possible, natural vegetation and topography shall be maintained. An even distribution of green area and plant materials is desirable. A landscape plan shall be approved by the Planning Director prior to the issuance of a zoning permit. Such plan shall include, at a minimum:

(aa) At least twenty percent (20%) of the total lot area maintained as green area.

(bb) At least one (1) tree for every eight hundred (800) square feet of required green area. The retention of one (1) existing tree shall be the equivalent of two (2) new trees.

(cc) At least ten (10) shrubs for every eight hundred (800) square feet of required green area. The retention of existing shrubs shall count toward this requirement on a 1:1 basis.

(dd) Paved areas and exterior utility boxes softened and/or screened with plant materials.

(ee) Foundation plantings along at least three (3) sides of each building.

Alternatives to the requirements of (aa) through (ee) may be submitted to the Planning Director; approval of such will be subject to the alternatives successfully meeting the intent of those requirements. All plant materials required herein shall meet the minimum standards of Section 9-168 of the City Code.

(c) The Use Permit shall automatically expire and become null and void if the property is not used for the permitted purpose for a continuous six (6) month period.

(d) Additional conditions may be included based upon site specific characteristics.  
(10/27/99)

(6) Use Permits for any orphanage or shelter in any residential zoning district shall include the following minimum standards:

(a) No facility shall be located within a two (2) mile radius of any existing facility of the same type;

(b) All new construction shall meet the following design standards:

(1) Architectural standards:

(aa) Only gable and hip-style roofs shall be permitted.

(bb) Roof pitch shall be a minimum of 1:3, horizontal to vertical, with a maximum of 1:1.

(cc) Roofs shall be designed with at least one change or break in plane within every sixty foot (60') segment. Vertical roof changes, porch roofs and dormers are examples of acceptable plane changes.

Typical roof lines with periodic breaks in plane.

(dd) Roof materials shall be those typical in residential construction. Existing buildings undergoing expansion shall use materials similar in color, size and texture to the existing roof

materials. Standing seam metal roofs shall not be permitted unless required due to the expansion of an existing roof.

(ee) Building materials to be used for exterior finishes shall be those typical in residential construction. Concrete masonry units, precast concrete panels, vertical ribbed metal exteriors or highly reflective materials shall not be permitted unless required due to the expansion of an existing building. Existing buildings undergoing expansion shall use materials similar in color, size and texture to the existing building materials.

(ff) Windows shall cover between ten percent (10%) and fifty percent (50%) of any exterior wall fronting on an existing or proposed public right-of-way. Existing buildings undergoing expansion shall preserve the existing portion of exterior wall and glazing on any new walls that front on an existing or proposed public right-of-way.

(2) Green area:

Whenever possible, natural vegetation and topography shall be maintained. An even distribution of green area and plant materials is desirable. A landscape plan shall be approved by the Planning Director prior to the issuance of a zoning permit. Such plan shall include, at a minimum:

(aa) At least twenty percent (20%) of the total lot area maintained as green area.

(bb) At least one (1) tree for every eight hundred (800) square feet of required green area. The retention of one (1) existing tree shall be

the equivalent of two (2) new trees.

(cc) At least ten (10) shrubs for every eight hundred (800) square feet of required green area. The retention of existing shrubs shall count toward this requirement on a 1:1 basis.

(dd) Paved areas and exterior utility boxes softened and/or screened with plant materials.

(ee) Foundation plantings along at least three (3) sides of each building.

Alternatives to the requirements of (aa) through (ee) may be submitted to the Planning Director; approval of such will be subject to the alternatives successfully meeting the intent of those requirements. All plant materials required herein shall meet the minimum standards of Section 9-168 of the City Code.

(c) the Use Permit shall automatically expire and become null and void if the property is not used for the permitted purpose for a continuous six (6) month period.

(c) Additional conditions may be included based upon site specific characteristics.  
(10/27/99)

Article III. Use Permits for Manufactured/Mobile Home  
Parks or Subdivisions (10/24/90)

Division I. In General

Sec. 20-6. was repealed 10/23/91.

Sec. 20-7. was repealed 10/23/91.

Sec. 20-8. Application for Use Permit.

An application for a Use Permit for the development of a manufactured/mobile home park or subdivision in a Multiple Dwelling District (MD-2 or MD-3), or Neighborhood Commercial District (C-1), shall be submitted to the Planning Director.

- (1) Application for a manufactured/mobile home park shall include a conceptual site plan, and a landscape plan as required herein.
- (2) Application for a manufactured/mobile home subdivision shall include a preliminary subdivision plan, and a landscape plan as required herein.
- (3) Nothing in this section shall alter the requirements for the approval of site plans and/or subdivision plans, as provided in Chapters 9 (Site Plan Ordinance) and 35 (Subdivision Ordinance) of the City Code.

Sec. 20-9. Uses Permitted in Manufactured/Mobile Home Park or Subdivision.

Only those manufactured/mobile homes constructed in accordance with regulations promulgated under the Federal Manufactured Housing Construction and Safety Standards Act or the Virginia Industrialized Building and Manufactured Home Safety Regulations, as amended, and bearing the appropriate seals and labels to certify compliance with such regulations shall be permitted under this article. Manufactured/mobile home park owners/operators and individual unit owners in subdivisions shall be responsible for the maintenance and upkeep of units in such parks or subdivisions.

Division II. Minimum Requirements and Objective Standards

Sec. 20-10. Application of Standards.

The hereinafter stated regulations, minimum requirements and objective standards shall apply to all manufactured/mobile home parks and subdivisions permitted after October 24, 1990, and any changes or additions to manufactured/mobile home parks and subdivisions existing prior to October 24, 1990.

Sec. 20-11. Area Requirements; Number of Lots.

All manufactured/mobile home parks and subdivisions shall be located on a minimum of five (5) acres, and shall be comprised of a minimum of ten (10) lots.

Sec. 20-12. Lot Area Requirements.

- (1) All lots within a manufactured/mobile home park shall meet the following minimum standards:
  - (a) Lots for single-wide units shall contain at least thirty-eight hundred (3,800) square feet and have at least forty (40) feet of street frontage.
  - (b) Lots for double-wide units shall contain at least five thousand two hundred twenty-five (5,225) square feet and have at least fifty-five (55) feet of street frontage.
  - (c) Lots that are contiguous to the required fifty (50) foot buffer area, along either the side or rear lot line, may reduce their lot area by the depth of the required setback times the length of that side or rear property line.
- (2) All fee-simple lots within a manufactured/mobile home subdivision shall meet the following minimum standards:
  - (a) Lots for single-wide units shall contain at least four thousand seven hundred twenty-five (4,725) square feet and have at least forty-five (45) feet of street frontage.
  - (b) Lots for double-wide units shall contain at least sixty-three hundred (6,300) square feet

and have at least sixty (60) feet of street frontage.

- (c) Lots that are contiguous to the required fifty (50) foot buffer area, along either the side or rear lot line, may reduce their lot area by the depth of the required setback times the length of that side or rear property line.

Sec. 20-13. Height Regulations.

All structures within the manufactured/mobile home park or subdivision shall comply with the height regulations of the district in which they are located.

Sec. 20-14. Dwelling Area Requirements.

All manufactured/mobile homes placed in a park or subdivision shall have a minimum dwelling area of three hundred twenty (320) square feet.

Sec. 20-15. Building Setback Requirements.

(1) Front Setback

- (a) Manufactured/mobile homes in parks shall be set back at least fifteen (15) feet from the front lot line.
- (b) Manufactured/mobile homes in subdivisions shall be set back at least twenty (20) feet from the front fee-simple lot line.
- (c) All structures within manufactured/mobile home parks and subdivisions shall be set back at least fifty (50) feet from the front project property line.

(2) Side Setback

- (a) Manufactured/mobile homes in parks shall be set back at least ten (10) feet from one side lot line and fifteen (15) feet from the other side lot line. The unit shall be sited such that the primary entrance opens onto the larger side yard.
- (b) Manufactured/mobile homes in subdivisions shall be set back at least fifteen (15) feet from the side fee-simple lot line.



- (c) If the lot area has been reduced under the provisions of Section 20-12 herein, no side setback is required abutting the buffer area.
  - (d) All structures within manufactured/mobile home parks and subdivisions shall be set back at least fifty (50) feet from the side project property lines.
- (3) Rear Setback
  - (a) Manufactured/mobile homes in parks shall be set back at least ten (10) feet from the rear lot line.
  - (b) Manufactured/mobile homes in subdivisions shall be set back at least fifteen (15) feet from the rear fee-simple lot line.
  - (c) If the lot area has been reduced under the provisions of Section 20-12 herein, no rear setback is required abutting the buffer area.
  - (d) All structures within manufactured/mobile home parks and subdivisions shall be set back at least fifty (50) feet from the rear project property line.

Sec. 20-16. Off-Street Parking.

A minimum of two (2) off-street parking spaces shall be provided for each manufactured/mobile home in parks and subdivisions. At least one (1) space shall be provided on the lot housing the unit. The additional space may be provided in an off-street parking area, to be located within one hundred fifty (150) feet of the unit it is to serve. All parking spaces shall meet the provisions of Chapter 19 hereof.

Sec. 20-17. Landscaping.

A landscaping plan shall be submitted delineating the following:

- (1) Perimeter Screening.  
All manufactured/mobile home parks and subdivisions shall provide a perimeter screen composed of landscaping or a combination of landscaping and fencing, the intent of which is to limit ingress and egress on the property, and to provide some buffering from adjoining uses. The

screen shall be at least six (6) feet in height, and shall be located on all project property lines that do not abut existing or proposed public rights-of-way; such screening shall be set back at least ten (10) feet from any existing or proposed public rights-of-way. The only openings permitted in such screening shall be for vehicular ingress and egress. Barbed wire and electric fences are expressly prohibited. Landscaping materials for the perimeter screen cannot be counted toward the landscaping requirements of Section 20-17(2) herein.

- (2) Green Area Requirements.  
All manufactured/mobile home parks and subdivisions with twenty (20) or more lots shall be required to provide at least three hundred (300) square feet of green area per lot which shall be retained as common area. Such green area shall be in addition to the minimum lot area for dwelling units, and shall be aggregated in increments of at least forty five hundred (4,500) square foot. No more than twenty-five percent (25%) of this required area may be provided by water area. Such green area shall be landscaped in accordance with the requirements of Sec. 9-168 of the City Code (Site Plan Ordinance).
- (3) Buffers.  
No structures, except fences as part of the perimeter screen, shall be permitted within fifty (50) feet of the project property lines. Parking shall not be located closer than twenty (20) feet from the project property lines. All green area and landscaping within this buffer, except for that required for the perimeter screen, may be counted toward the green area requirement stated above.
- (4) Lots.  
Each lot in a manufactured/mobile home park or subdivision shall contain at least one (1) tree, exhibiting a minimum trunk diameter of one and one-half (1-1/2) inches measured six (6) feet above ground level, and a minimum height of eight (8) feet, for every two thousand (2,000) square feet of lot area.
- (5) Because certain trees may damage mobile/manufactured homes during severe weather conditions, the following trees are recommended

for use in meeting the landscaping requirements above:

- (a) Japanese maple (*Acer palmatum*);
- (b) Flowering dogwood (*Cornus florida*);
- (c) River birch (*Betula nigra*);
- (d) American hornbeam (*Carpinus caroliniana*);
- (e) Eastern redbud (*Cercis canadensis*);
- (f) Kousa dogwood (*Cornus kousa*);
- (g) Smoketree (*Cotinus coggyria*);
- (h) Russian olive (*Elaeagnus angustifolius*);
- (i) Crape myrtle (*Lagerstroemia indica*);
- (j) Sourwood (*Oxydendrum arboreum*);
- (k) Whitehouse pear (*Pyrus calleryana* 'Whitehouse');
- (l) American holly (*Ilex opaca*);
- (m) Savannah holly (*Ilex opaca* 'Savannah');
- (n) East palatka holly (*Ilex opaca* 'East Palatka');
- (o) Austrian pine (*Pinus nigra*);
- (p) Gingko tree (*Gingko biloba*);
- (q) Bald cypress (*Taxodium distichum*); and
- (r) Japanese zelkova (*Zelkova serrata* 'Village Green')

Sec. 20-18. Streets.

All street layouts in manufactured/mobile home parks and subdivisions shall be designed so as to ensure efficient vehicular flow, adequate access for emergency vehicles, and unobstructed access to public streets. Private streets shall be permitted within the park or subdivision, however, any public street within said development shall be constructed to the standards provided in Sec. 35-74 of the

City Code. On-street parking shall be regulated according to the following pavement widths:

<u>Pavement Width</u>	<u>On-Street Parking</u>
22'	Not permitted
27'	One side of street
32'	Both sides of street

Manufactured/mobile home park and subdivision owners shall be responsible for enforcement of parking regulations on private streets.

Sec. 20-19. Signs.

All signs placed upon the site shall meet the provisions of Chapter 18.1 hereof.

Sec. 20-20. Dumpsters.

Dumpsters shall not be placed within the buffer area required along any property line abutting an existing or proposed public right-of-way, or within twenty (20) feet of any project property line abutting a residential district. Individual toters shall be kept behind the building setback lines except on collection days.

Sec. 20-21. Fences.

On any manufactured/mobile home lot, a fence may be located and maintained along the lot line, provided that such fence shall not exceed four (4) feet in height along the front yard and six (6) feet in height along the rear and side yard lines. The use of electrified fences or barbed wire is expressly prohibited.

Sec. 20-22. Accessory Structures.

(1) The following accessory structures are permitted:

- (a) Laundry facilities, to be located in common areas.
- (b) Patios, porches and decks.
- (c) Storage sheds.
- (d) Service buildings for the park, to include a rental/management office, to be located in common areas.
- (e) Recreational facilities for the exclusive use

of the residents and their guests, to be located in common areas.

- (2) No accessory structures shall be permitted within the required fifty (50) foot buffer area. In the case of lots of reduced area under the provisions of Section 20-12 herein, no accessory structures may be located in the contiguous buffer area.
- (3) Patios, porches, stoops and decks shall be permitted to encroach a maximum of ten (10) feet into the fifteen (15) foot side setback or the rear setback so long as they are not enclosed in any manner.
- (4) Stoops shall be permitted to encroach a maximum of four (4) feet into the ten (10) foot side sideback, exclusive of handicapped ramps. The landing area for such stoop shall not exceed four feet by four feet (4'x4').
- (5) Sheds shall be permitted to encroach into the rear setback so long as they do not occupy more than thirty-three percent (33%) of the required yard. Sheds shall not be required to meet the rear or side yard setbacks.

Sec. 20-23. Maintenance, Perpetuation of Open Space and Guarantee of Development in Manufactured/Mobile Home Subdivisions.

A manufactured/mobile home subdivision may be accomplished as outlined in this article by providing for the retention of open space in common ownership of the individual owners through appropriate legal documents, with appropriate provision to assure continuous maintenance and the use of the common property for the purpose intended. The legal document or documents shall place unencumbered title to the common property in a form of common ownership representing the residents of the manufactured/mobile home subdivision (homeowners' association), shall place responsibility for the management and maintenance of all common property, shall set forth the restrictive covenants, and place responsibility for the enforcement thereof, and shall provide for the subjection of each lot to assessment of its proportionate share of maintenance costs of the common property. Such legal documents shall be filed with the application for approval of a manufactured/mobile home subdivision and shall be approved as to form by the City Attorney. Such legal documents shall be recorded and

indexed as deeds are recorded prior to or in conjunction with the recordation of any subdivision plat.

Sec. 20-24. Sanitary Sewer.

All lots within any manufactured/mobile home park or subdivision shall be connected to the public sanitary sewer system or an approved private sewer system.

Sec. 20-25. Phasing of Development.

In the event that the manufactured/mobile home park or subdivision is to be developed in phases, each individual phase must, at a minimum, meet the open space and landscaping requirements for the number of lots created in that phase. It is the intent of this section to protect the integrity of the overall development by protecting the integrity of each phase.

Sec. 20-26. Waiver of Requirements.

Under the provisions of the conditional use permit, the City reserves the right to waive any of the above requirements if the proposed park or subdivision meets the intent of the regulations using good design principles.

Division III. Administration

Sec. 20-26.1. Approval of Use Permits.

- (1) The developer is encouraged to unofficially submit preliminary concept designs to the Planning Director for coordination purposes.
- (2) Once an application has been formally submitted, it shall be forwarded to the Planning Commission for review. The Planning Commission may recommend modifications as necessary, and will forward its recommendation to City Council.
- (3) The Planning Commission shall not recommend, nor the City Council approve, any conditional use permit for a manufactured/mobile home park or subdivision until notice of intention to do so has been published once a week for two (2) successive weeks in some newspaper published or having general circulation in the City of Hampton; provided that such notice for both the Planning Commission and the City Council may be published concurrently. Such notice shall specify the time and place of hearing at which persons affected may

appear and present their views, not less than six (6) days nor more than twenty one (21) days after the second advertisement shall appear in such newspaper. Such notice shall also specify where copies of the proposed development plan may be examined. The Planning Commission and the City Council may hold a joint public hearing after public notice as set forth above. If such joint hearing is held, the public notice as set forth above need be given only by the City Council.

- (4) Whenever an application for a use permit for manufactured/mobile home park or subdivision is received, then, in addition to the advertising required above, written notice shall be given at least five (5) days before the hearing to the owner or owners, their agents, or the occupants of each parcel affected, all abutting property, and property immediately across the street or road from the property affected. Such written notice shall be the same as required in the provisions of Section 15.1-431 of the Code of Virginia, 1950, as amended.

#### Sec. 20-26.2. Expiration of Use Permits.

- (1) In the case of manufactured/mobile home parks, an approved use permit shall be deemed expired if, two (2) years after the date of approval, at least twenty-five percent (25%) of the lots to be developed are not ready for immediate occupancy. If, five (5) years after the date of approval, the park is not completed, the use permit for the remaining lots shall be deemed expired.
- (2) In the case of manufactured/mobile home subdivisions, an approved use permit shall be deemed expired if, one (1) year after the date of approval, a preliminary subdivision plan has not been approved.
- (3) In the event of expiration, further development of either a manufactured/mobile home park or subdivision shall not continue without approval of a new Use Permit. If approval of a new Use Permit is not requested or not forthcoming from City Council, the owner/developer shall complete the required fifty (50) foot buffer surrounding the sections of the park or subdivision already completed.

Article IV deleted on 5/26/04.